

AMENDED IN ASSEMBLY APRIL 28, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1406

Introduced by Assembly Member Wolk

February 21, 2003

An act to add and repeal Chapter 13 (commencing with Section 2924) of Division 3 of the Fish and Game Code, relating to vector control.

LEGISLATIVE COUNSEL'S DIGEST

AB 1406, as amended, Wolk. Mosquito abatement: West Nile Virus.

(1) Existing law establishes mosquito abatement and vector control districts to surveil, study, and take actions to prevent, abate or control vectors and vectorborne diseases. Existing law establishes, until January 1, 2005, the Suisun Marsh Wetlands Enhancement and Mosquito Abatement Demonstration Program, for the purpose of devising and evaluating methods by which wetland management techniques in the Suisun Marsh can be better integrated with mosquito abatement programs.

This bill would express the intent of the Legislature to expand the Suisun Marsh demonstration program statewide by developing a cooperative program to combat the impending spread of the mosquito-borne West Nile Virus and funding mosquito and vector control districts to abate mosquito producing wetlands. The bill would state that the purpose of the program is to reduce mosquito production

from early and late flooding, as defined, through the cooperative efforts of mosquito ~~abatement~~ districts, *as defined*, and private wetlands landowners.

This bill would require wetlands landowners and mosquito districts to meet and confer each year to discuss and develop *habitat*, water, and land management techniques to reduce the production of mosquitos on wetlands, and to determine whether they will conduct early or late flooding. The bill would require landowners to cooperate and assist in ~~developing~~ *devising* management plans to reduce mosquito production on wetlands.

The bill would require a landowner to notify the mosquito district within 24 hours of the start of any summer or fall irrigation of wetlands.

The bill would require mosquito districts to keep detailed records on each mosquito outbreak requiring control measures, posttreatment inspections, and other information relative to the outbreak. The bill would require mosquito districts to immediately notify landowners of outbreaks and to provide recommendations ~~about changing wetlands~~ *regarding wetlands habitat* management practices to avert *or minimize* future outbreaks. The bill would require each mosquito district to report to the Department of Fish and Game by January 1, 2007, regarding how marsh management practices and mosquito abatement operations have been improved to better integrate disease control and wetland survivability. The bill would specify that no General Fund money ~~shall~~ *may* be used for its purposes.

The new duties for mosquito abatement districts required by the bill would impose a state-mandated local program.

The bill would repeal its provisions on January 1, 2007.

~~The~~

(2) *The* California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature to expand the Suisun Marsh Wetlands Enhancement and Mosquito Abatement Demonstration Program (Ch. 12 (commencing with Sec. 2920), Div. 3, F. & G. C.) statewide by developing a cooperative program to combat the impending spread of the mosquito-borne West Nile Virus and funding mosquito and vector control districts to abate mosquito producing wetlands.

SEC. 2. The Legislature finds and declares all of the following:

(a) There is an incipient danger mounting with the spread of the West Nile Virus to California. Health and safety considerations mandate additional affirmative efforts to combat the spread of mosquito-borne diseases.

(b) Existing state policies on wetlands and health and safety are sometimes in conflict.

(c) California provides wintering and nesting habitat for more than 60 percent of the migratory waterfowl of the Pacific flyway. ~~Yet, over the course of the past century, 90 percent of our state's historical wetlands for these waterfowl has been destroyed or adversely impacted.~~

(d) The significant loss of wintering and breeding habitat has not only impacted Pacific flyway waterfowl populations, but ~~experts also estimate it is estimated~~ that over one-half of California's listed species are also wetland-dependent.

(e) Recognizing the importance of these habitats, and the significant impact their loss can have on our native wildlife populations, the federal governments of the United States, Canada, and Mexico are cooperating on the implementation of the North American Waterfowl Management Plan. To carry out the purposes of this plan in California, the state and federal governments *and nonprofit organizations* have entered into the Central Valley Habitat Joint Venture. The Central Valley Habitat Joint Venture, *which covers an area that extends from Red Bluff to Bakersfield* has identified the urgent need to protect 80,000 acres of wetlands in the central valley, to establish 120,000 acres of new wetlands in the central valley, to improve habitat on existing public and private wetlands and agricultural lands, and to secure dependable water sources for the wetlands.

1 (f) More than 90 percent of California's historic wetlands have
2 disappeared in the past century. The State of California and the
3 United States now encourage the funding, development,
4 enhancement and revitalization of wetlands, through state
5 enhancement programs such as the California Waterfowl *Habitat*
6 Program (Art. 7 (commencing with Sec. 3460), Ch. 2, Div. 4, Pt.
7 1, F. & G. C.), and from the United States Departments of Interior
8 and Agriculture through waterfowl habitat easements, the
9 Conservation Reserve Program (16 U.S.C. Sec. 3831), the
10 Wetlands Reserve Program (16 U.S.C. Sec. 3837), and the North
11 American Wetlands Conservation Act (16 U.S.C. Sec. 4401 et
12 seq.), which foster maintenance and development of wetlands.

13 (g) The development of wetlands increases the production of
14 mosquitoes. There is a need to reconcile competing state policies
15 of health protection and wetland *restoration and* enhancement,
16 which should begin with vigorous state action to assist mosquito
17 abatement districts and landowners to jointly abate the danger
18 posed to humans and wildlife *by mosquitoes*, while increasing
19 desirable wetland habitat.

20 (h) The central valley watershed and bay-delta areas are prime
21 wetland habitat.

22 (i) There is a need to foster a cooperative partnership among
23 ~~traditionally competing interests such as districts, field districts,~~
24 *field* technicians, agencies and landowners.

25 SEC. 3. Chapter 13 (commencing with Section 2924) is added
26 to Division 3 of the Fish and Game Code, to read:

27 2924. This act shall be known as the West Nile Virus Disease
28 Control and Demonstration Program.

29 2925. For the purposes of this chapter, the following terms
30 have the following meanings:

31 (a) "District" or "mosquito district" means the
32 ~~Sacramento-Yolo Mosquito and Vector Control District; San~~
33 ~~Joaquin County Mosquito and Vector Control District; Colusa~~
34 ~~Mosquito Abatement District; the Sutter-Yuba Mosquito and~~
35 ~~Vector Control District; and Butte County Mosquito and Vector~~
36 ~~Control District.~~ *mosquito and vector control districts and*
37 *mosquito abatement districts within the boundaries of the Central*
38 *Valley Habitat Joint Venture.*

39 (b) "Early flooding" means the flooding of privately owned
40 wetlands on which waterfowl ponds are located that are initially

1 flooded prior to October 1 of each year ~~and remain flooded after~~
2 ~~that date.~~

3 (c) "Late flooding" means flooding of privately owned
4 wetlands on which waterfowl ponds are located that are flooded
5 after October 1 of each year ~~and remain flooded after that date.~~

6 (d) "Program" means the West Nile Virus Disease Control and
7 Demonstration Program.

8 (e) "Landowner" means an owner of private wetlands *or a*
9 *designee* within a mosquito district.

10 (f) "Department" means the California Department of Fish
11 and Game.

12 (g) "Lien" means a recorded lien placed on property by a
13 district for the purpose of collecting abatement charges.

14 (h) "Voluntary agreement" means any written agreement
15 between landowners and a mosquito district concerning abatement
16 costs.

17 2926. The program is hereby established for the purpose of
18 reducing mosquito production from early and late flooding,
19 through the cooperative efforts of mosquito districts and
20 landowners, during calendar years 2004 and 2005.

21 2927. (a) No General Fund money ~~shall~~ *may* be used for the
22 purposes of this program. *In no case may the funding eliminate the*
23 *abatement authority of the districts pursuant to Chapter 1*
24 *(commencing with Section 2000) of Division 3 of the Health and*
25 *Safety Code.*

26 (b) Funds derived from voluntary agreements, assessments, or
27 additional liens placed on property shall be used to offset the costs
28 of abatement charged to landowners by districts.

29 ~~(c) Of those funds, no more than ten thousand dollars (\$10,000)~~
30 ~~annually shall be used by a district for administration of this~~
31 ~~chapter.~~

32 (c) (1) *Priority for allocation of funding shall be given to both*
33 *of the following:*

34 (A) *Those properties that have demonstrated the propensity, or*
35 *for which it can be reasonably assumed are the most likely, to*
36 *produce mosquitoes at levels requiring extensive abatement*
37 *efforts.*

38 (B) *Those landowners who have received grants for wetlands*
39 *projects or have entered into state or federal programs for habitat*
40 *development, conservation, or preservation.*

1 (2) *Priority for funding shall be determined by the grantee in*
2 *cooperation with the Central Valley Habitat Joint Venture and*
3 *mosquito districts within the Central Valley Habitat Joint Venture.*

4 (d) Any unused funds in one *fiscal* year may be carried over to
5 subsequent fiscal years.

6 2928. (a) At least three months before the start of each early
7 or late flooding, each district shall meet and confer with
8 landowners in that district to cooperatively discuss and develop
9 habitat, water, and land management techniques to reduce the
10 production of mosquitoes on wetlands. Landowners shall
11 cooperate and assist in devising management plans to reduce
12 mosquito production on wetlands by using the most ~~cost~~ effective,
13 best available control measures to minimize adverse impacts on
14 the wetlands ecosystem.

15 (b) Not later than July 31 of each calendar year, the mosquito
16 district and the landowners shall confer for the purpose of
17 determining whether they will conduct ~~an early or late flooding~~
18 ~~program. Priority shall be given to those properties that have~~
19 ~~demonstrated, or for which it can be reasonably assumed, are the~~
20 ~~most likely to produce mosquitoes at levels requiring extensive~~
21 ~~abatement efforts.~~

22 ~~(c) early or late flooding.~~

23 (c) A landowner shall notify the mosquito district within 24
24 hours of the start of any summer or fall irrigation of wetlands.

25 (d) The mosquito district shall keep detailed records of each
26 mosquito outbreak requiring the application of control measures,
27 including the date of the outbreak and any posttreatment
28 inspections, the species of mosquitoes involved, approximate
29 acreage affected by the outbreak, the type of control measures
30 employed, the type of chemical controls applied, if any, the
31 application rate, and the total cost of the abatement procedure.

32 ~~(d)~~

33 (e) The mosquito district shall immediately notify the
34 landowners of any mosquito outbreaks requiring control
35 measures, and provide the landowners with the written record of
36 those outbreaks and any recommendations regarding wetland
37 habitat management practices that could be employed to avert or
38 minimize future outbreaks on the property in a timely fashion.

39 2929. (a) Each mosquito district, in cooperation with
40 landowners, shall report to the department by January 1, 2007,

1 regarding how marsh management practices and mosquito
2 abatement operations have been improved to better integrate
3 disease control and wetland survivability. The report shall include
4 information about all of the following:

- 5 (1) Specific reductions of mosquito production.
- 6 (2) Enhancement of wetland habitat.
- 7 (3) Reduction of the cost of vector control measures.
- 8 (4) Reduction of the use or need for application of chemical
9 control agents into the environment.

10 2930. This chapter shall remain in effect only until January 1,
11 2007, and of that date is repealed, unless a later enacted statute,
12 which is chaptered before January 1, 2007, deletes or extends that
13 date.

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of
19 Section 17556 of the Government Code.

